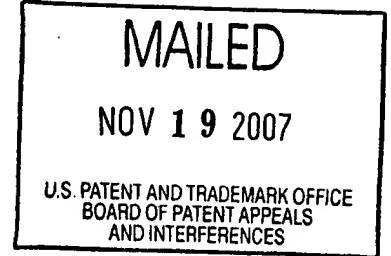


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte: TADAMASA KITSUKAWA

Application No. 09/802,635

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on November 19, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

EXAMINER'S ANSWER

An examination of the application reveals that the Final Rejection mailed March 23, 2006 and the Examiner's Answer mailed April 5, 2007, fails to include claim 9 in any of the statement of the grounds of rejection. The statement of rejections are listed as follows:

1. Claims 1-3, 5 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Connelly (US Pat No 6,144,376) in view of Urakoshi (US Pat No 6,067,564) and further in view of Watson (US Pat No 5,289,271).
2. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Connelly in view of Urakoshi further in view of Watson, and further in view of Linehan (US Pat Pub No 2004/0249726).

3. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Connelly in view of Goodwin (US Pat App Pub No 20020091756).

4. Claims 11-12 and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Connelly in view of Goodwin further in view of Watson.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Connelly in view of Goodwin further in view of Watson and further view of Linehan.

It is noted that claims 10-18 were canceled in the Amendment filed April 7, 2006 (not considered by examiner)

Correction is required.

EXAMINER'S CONSIDERATION OF REPLY BRIEF

The Examiner must consider and acknowledge receipt of the Reply Brief filed September 4, 2006, via written communication.

MPEP § 1208.03 states:

Under 37 CFR 1.193(b)(1), appellant may file a reply brief as a matter of right.... The primary examiner must then either: (A) acknowledge receipt and entry of the reply brief... or (B) reopen prosecution to respond to the reply brief.

EXAMINER'S CONSIDERATION OF AMENDMENT

The Examiner must consider and acknowledge receipt of the Amendment filed April 7, 2006, via written communication.

MPEP § 1206 states:

Examiners must respond to all amendments filed after appeal has been taken and prior to termination of the appeal. If the examiner indicates (in the advisory action) that an amendment would be entered, it is imperative for the examiner to also state (in the same advisory action) how the individual rejection(s) set forth in the final Office action will be impacted by the entry of the amendment except where an amendment merely cancels claims.

EXAMINER'S CONSIDERATION OF PETITION

The Examiner must consider and acknowledge receipt of the Petition Under Rule 181 (MPEP §1002.02(c)) Re Notice of Non-Compliant Brief filed December 18, 2006, via written communication.


CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the examiner:

- 1) issue and mail a revised Examiner's Answer clarifying the status of claim 9;
- 2) consider the Reply Brief, Amendment and Petition;
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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